

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Terry M. MARTIN et al.	§	Confirmation No.:	5598
		§		
Serial No.:	10/628,166	§	Group Art Unit:	2452
		§		
Filed:	July 28, 2003	§	Examiner:	Thomas J. Dailey
		§		
For:	System And Method For	§	Docket No.:	200208612-1
	Collecting Data Regarding	§		
	Network Service Operation	§		

**APPEAL BRIEF**

**Mail Stop Appeal Brief – Patents**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Date: March 1, 2010

Sir:

Appellants hereby submit this Appeal Brief in connection with the above-identified application. A Notice of Appeal was electronically filed on December 30, 2009.

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**I. REAL PARTY IN INTEREST**

The real party in interest is Hewlett-Packard Development Company, L.P. (HPDC), a Texas Limited Partnership, having its principal place of business in Houston, Texas. HPDC is a wholly owned affiliate of Hewlett-Packard Company (HPC). The Assignment from the inventors to HPDC was recorded on September 25, 2003, at Reel/Frame 014002/0765.

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**II. RELATED APPEALS AND INTERFERENCES**

Appellants are unaware of any related appeals or interferences.

**III. STATUS OF THE CLAIMS**

Originally filed claims: 1-34.  
Claim cancellations: 3-4, 6-8, 10-12, 14, 16-24, 27, 31-34.  
Added claims: 35-39.  
Presently pending claims: 1-2, 5, 9, 13, 15, 25-26, 28-30, and 35-39.  
Presently appealed claims: 1-2, 5, 9, 13, 15, 25-26, 28-30, and 35-39.

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**IV. STATUS OF THE AMENDMENTS**

No claims were amended after the final Office action dated October 30, 2009.

## **V. SUMMARY OF THE CLAIMED SUBJECT MATTER**

This section provides a concise explanation of the subject matter defined in each of the independent claims, referring to the specification by page and line number or to the drawings by reference characters. Each element of the claims is identified with a corresponding reference to the specification or drawings where applicable. The citation to passages in the specification or drawings for each claim element does not imply that the limitations from the specification and drawings should be read into the corresponding claim element. These specific references are not exclusive; there may be additional support for the subject matter elsewhere in the specification and drawings.

Claim 1 is directed to a method for building a session timing profile. P. 17, ll. 1-2. The method comprises a client (102) sending a request intended for a network service (104). P. 12, ll. 19-20; Fig. 1; Fig. 3A. The method also comprises a message handler (216) associated with the client intercepting the request. P. 12, ll. 22-23; Fig. 1; Fig. 3A. The method also comprises the message handler (216) interjecting a session identifier into the request. P. 13, ll. 3-12; Fig. 1; Fig. 3A. The method also comprises the message handler (216) transmitting the request to the network service (104) over a network (100), the message handler (216) storing in a database (110) relative to the session identifier the time at which the request was transmitted to the network service (104), and the message handler (216) intercepting a response to the request from the network service (104) and intended for the client (102). P. 13, l. 13 – p. 14, l. 15; Fig. 1; Fig. 3B. The method further comprises the message handler (216) identifying the session identifier within the response, the message handler (216) storing in the database (110) relative to the session identifier the time at which the response was received, and the message handler (216) providing the response to the client (102). P. 16, ll. 4-24; p. 17, ll. 12-15; Fig. 1; Fig. 3B; Fig. 4. The method of claim 1 also finds extensive support in the following portions of the

specification and drawings, without limitation: Figs. 4 and 6-8; p. 15, l. 8 – p. 16, l. 23; p. 18, l. 3 – p. 22, l. 9.

Claim 25 is directed to a computer-readable medium (204) that stores a message handler (216) associated with a client (102). P. 9, l. 6 – p. 11, l. 6; Fig. 1; Fig. 2. The message handler (216) comprises logic configured to intercept a message sent by the client (102) and intended to a network service (104), logic configured to interject a session identifier into the message, and logic configured to store in a database (110) relative to the session identifier the time at which the message was transmitted to the network service (104). P. 12, l. 19 – p. 13, l. 12; p. 17, l. 12-15; Figs. 1-3A. The medium of claim 25 also finds extensive support in the following portions of the specification and drawings, without limitation: Figs. 4 and 6-8; p. 15, l. 8 – p. 16, l. 23; p. 18, l. 3 – p. 22, l. 9.

Claim 29 is directed to the medium (204) of claim 25, in which the logic is configured to intercept a response from the network service (104) intended for the client (102). The logic also is configured to identify the session identifier within the response and is configured to store in the database (110) relative to the session identifier the time at which the response was received. The logic is further configured to provide the response to the client (102). P. 19, l. 20 – p. 20, l. 20; Figs. 1-2; Fig. 4. The medium of claim 29 also finds extensive support in the following portions of the specification and drawings, without limitation: Figs. 4 and 6-8; p. 15, l. 8 – p. 16, l. 23; p. 18, l. 3 – p. 22, l. 9.

Claim 36 is directed to a computer-readable medium (204) that stores a message handler (216) associated with a network service (104). P. 9, l. 6 – p. 11, l. 6; Fig. 1; Fig. 2. The message handler (216) comprises logic configured to intercept a request sent to the network service (104) from the client (102); to identify a session identifier within the request; to store in a database (110) relative to the session identifier the time at which the request was received; and to provide the request to the network service (104). P. 12, l. 19 – p. 13, l. 12; p. 17, ll. 12-15; Figs. 1-3A. The medium of claim 36 also finds extensive support

in the following portions of the specification and drawings, without limitation: Figs. 4 and 6-8; p. 15, l. 8 – p. 16, l. 23; p. 18, l. 3 – p. 22, l. 9.

Claim 38 is directed to the medium (204) of claim 36, in which the logic is configured to intercept a response sent by the network service (104) and intended for the client (102); to identify the messaging session to which the response belongs; to interject the session identifier into the response; to transmit the response to the client (102) over the network (100); and to store in the database (110) relative to the session identifier the time at which the response was transmitted to the client (102). P. 19, l. 20 – p. 20, l. 20; Figs. 1-2; Fig. 4. The medium of claim 38 also finds extensive support in the following portions of the specification and drawings, without limitation: Figs. 4 and 6-8; p. 15, l. 8 – p. 16, l. 23; p. 18, l. 3 – p. 22, l. 9.

**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Whether the Examiner erred in rejecting claims 1, 2, 5, 9, 13, 15, 25, 26, 28-30, and 35-39 using Karakashian et al. (U.S. Pub. No. 2004/0064503) in view of Felciano et al. (U.S. Pat. No. 6,052,730).

## VII. ARGUMENT

### A. Summary of Karakashian

Karakashian is directed to a web services architecture. Abstract. Karakashian teaches the processing of requests. *Id.* A protocol adapter sends a request to a container driver. A container driver processes each request by performing any necessary data binding and unbinding. *Id.* An interceptor receives context information from the container driver and modifies the information so that it is compatible with the web services. *Id.* The container driver then passes the modified information to an invocation handler. *Id.* The invocation handler, in turn, passes only parameters from the modified information to the target of the request. *Id.* In response, the target of the request sends values to the invocation handler which, in turn, forwards the values to the container driver. *Id.* Using these values, the container driver formulates a response to the protocol adapter's original request and sends the response to the protocol adapter, along with the message context. *Id.*

### B. The Examiner erred in rejecting the claims under 35 U.S.C. § 103(a) in view of Karakashian and Felciano because the combination of references fails to teach all claim limitations

#### 1. Claims 1, 2, 5, 9, 13 and 15

Claims 1, 2, 5, 9, 13, and 15 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious in view of Karakashian and Felciano. Claim 1 is representative of this grouping of claims. The grouping should not be construed to mean the patentability of any of the claims may be determined in later actions (*e.g.*, actions before a court) based on the groupings. Rather, the presumption of 35 U.S.C. § 282 shall apply to each of these claims individually.

Claim 1 requires, "a message handler associated with the client intercepting [a] request" that is "intended for a network service." The combination of Karakashian and Felciano fails to render this limitation obvious. On p. 4 of the Final Office Action, the Examiner cites paragraph 0036, ll. 3-6 of Karakashian and

argues that the teaching there is the same as the claimed “interception” because the protocol adapter “sends the response, after processing, to the originator of the request.” The Examiner insists that “this is exactly the same thing the claimed invention does.” Final Office Action, p. 4.

The Examiner errs in his argument because there is no indication in Karakashian that data received by the protocol adapter 102 was actually an “interception” of data that was, in reality, “intended” for an entity other than the adapter 102. For example, although data sent to the protocol adapter 102 is then forwarded to the web service container 108, there is no indication that the data is “intercepted” by the protocol adapter 102. The data is first routed to the protocol adapter 102 as a matter of course and, subsequently, is sent to the web service container 108.

Thus, Karakashian fails to teach the cited limitation. Felciano fails to satisfy Karakashian’s deficiency. As a result, the Examiner erred in rejecting claim 1 using the combination of Karakashian and Felciano.

The Examiner erred for an additional reason. Claim 1 requires “the message handler interjecting a session identifier into the request.” The combination of Karakashian and Felciano fails to render this limitation obvious. The Examiner observes on p. 3 of the Final Office Action that Karakashian’s “message contexts” include identifying data (Karakashian, paragraph 0038) and that Karakashian’s “protocol adapter” propagates message context, with request signals, to web services (Karakashian, paragraph 0036, ll. 11-12). The Examiner thus argues that because the identifying data is included in the message context, and because the message context is propagated with the request signal, the identifying data is interjected into the request signal. Final Office Action, p. 3.

The Examiner errs in his analysis for at least two reasons. First, the mere fact that Karakashian’s message contexts are propagated with request signals does not inherently require or even imply that any sort of message context interjection takes place. No part of Karakashian appears to teach that message

contexts are interjected into anything, much less a request signal. Second, Karakashian does appear to teach interjection, but the type of interjection taught is opposite to what claim 1 requires and what the Examiner alleges. Specifically, Karakashian teaches that the request signals are embedded in the message contexts and not the other way around. Karakashian, paragraph 0034, ll. 2-4 (“A message context can contain a request message, which is the web service request.”); see also Fig. 2 (labeling the communications between the protocol adapter 102 and web service container 108 as “message context,” thereby corroborating the fact that the request signal is interjected into the message context and not vice versa). While the differences in interjection between Karakashian and claim 1 might seem inconsequential, the differences are, in reality, of importance at least because they reflect a fundamental divergence in how the two systems operate. Karakashian thus fails to teach all limitations of claim 1 and Felciano fails to satisfy Karakashian’s deficiencies. Therefore, the Examiner erred in rejecting claim 1 for at least this additional reason.

The Examiner erred in rejecting claim 1 for a third reason. Claim 1 requires, “the message handler identifying the session identifier within the response.” The Examiner asserts that Karakashian teaches this limitation at paragraph 0036, ll. 3-6. The Examiner argues that “a session identifier is essential in the response in order for the protocol adapter (‘message handler’) to ‘return the data to the originator of the request.’” Final Office Action, p. 8.

The Examiner errs in making this argument. According to claim 1, the “session identifier” that is in the response is the same “session identifier” that is interjected into the request by the message handler. Conversely, however, the response session identifier to which the Examiner refers cannot be the same as the identifier allegedly interjected by the protocol adapter (or ‘message handler’) into the request signal. This is because, according to the Examiner, the session identifier is used to return the data to the originator of the request. Thus, the session identifier would have been placed in the request signal not by the

protocol adapter, but by the originator of the request. If the session identifier had been placed in the request by the protocol adapter (as claimed), the protocol adapter would not know from where the request came and would thus be unable to direct the response where to go, and the Examiner's argument would fall apart.

To explain another way, the claimed "session identifier" is interjected into the request by the message handler and is included in the response. In Karakashian, however, the session identifier is interjected by the originator of the request (not by the protocol adapter/message handler) and is included in the response. It is known that in Karakashian the originator of the request interjects the session identifier because the response would not otherwise be able to return to the originator (*i.e.*, the protocol adapter would not know from where the request came and where the response should go). Thus, Karakashian fails to teach all limitations of claim 1. Felciano fails to satisfy Karakashian's deficiencies. For at least this additional reason, the Examiner erred in rejecting claim 1 using Karakashian and Felciano.

Based on the foregoing, Appellants respectfully submit that the rejections of the claims in this grouping be reversed, and the claims set for issue.

## **2. Claims 25, 26, 28, and 30**

Claims 25, 26, 28-30 and 35 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious in view of Karakashian and Felciano. Claim 25 is representative of this grouping of claims. The grouping should not be construed to mean the patentability of any of the claims may be determined in later actions (*e.g.*, actions before a court) based on the groupings. Rather, the presumption of 35 U.S.C. § 282 shall apply to each of these claims individually.

Claim 25 requires "logic configured to intercept a message sent by the client and intended to a network service." Claim 25 also requires "logic configured to interject a session identifier into the message." As explained above in Section VII(A)(1) with respect to claim 1, the combination of Karakashian and

Felciano fails to teach or even suggest such limitations. Thus, the Examiner erred in rejecting claim 25 using Karakashian and Felciano.

Based on the foregoing, Appellants respectfully ask the Board to reverse the rejection of all claims in this grouping.

**3. Claims 36-39**

Claims 36-39 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious in view of Karakashian and Felciano. Claim 36 is representative of this grouping of claims. The grouping should not be construed to mean the patentability of any of the claims may be determined in later actions (*e.g.*, actions before a court) based on the groupings. Rather, the presumption of 35 U.S.C. § 282 shall apply to each of these claims individually.

Claim 36 requires “logic configured to intercept a request sent to the network service from the client.” As explained above with respect to claim 1, the combination of Karakashian and Felciano fails to teach or suggest such a limitation. Accordingly, Appellants respectfully ask the Board to reverse the rejection of all claims in this grouping.

**4. Claims 29 and 35**

Claims 29 and 35 stand rejected under 35 U.S.C. § 103(a) as allegedly obvious in view of Karakashian and Felciano. Claim 29 is representative of this grouping of claims. The grouping should not be construed to mean the patentability of any of the claims may be determined in later actions (*e.g.*, actions before a court) based on the groupings. Rather, the presumption of 35 U.S.C. § 282 shall apply to each of these claims individually.

Claim 29 depends on claim 25. Thus, the Examiner erred in rejecting claim 29 for at least the same reasons that the Examiner erred in rejecting claim 25 (see Section VII(A)(2) above).

The Examiner erred in rejecting claim 29 for an additional reason. Claim 29 requires “logic configured to identify the session identifier within the response.” As explained above with respect to claim 1, the combination of

Karakashian and Felciano fails to teach or suggest such a limitation. Thus, the Examiner erred in rejecting claim 29 for this additional reason.

Based on the foregoing, Appellants respectfully ask the Board to reverse the rejections of all claims in this grouping.

**5. Claim 38**

Claim 38 depends on independent claim 36. As explained above, the Examiner erred in rejecting claim 36. Therefore, the Examiner erred in rejecting claim 38 for at least the same reasons that the Examiner erred in rejecting claim 36.

The Examiner erred in rejecting claim 38 for an additional reason. Claim 38 requires “logic configured to intercept a response sent by the network service and intended for the client.” As explained above in Section VII(A)(1), the combination of Karakashian and Felciano fails to teach the interception of a request that is intended for a network service. The same is true for the interception of a response intended for the client: the combination of references fails to teach any such act of interception. For at least this additional reason, the Examiner erred in rejecting claim 38.

The Examiner erred in rejecting claim 38 for yet another reason. Claim 38 requires “logic configured to identify the messaging session to which the response belongs.” As explained above in Section VII(A)(1), the combination of Karakashian and Felciano fails to teach or suggest any such limitation. Thus, the Examiner erred in rejecting claim 38 for this additional reason.

Based on the foregoing, Appellants respectfully ask the Board to reverse the Examiner’s rejection of claim 38.

**C. Conclusion**

For the reasons stated above, Appellants respectfully submit that the Examiner erred in rejecting all pending claims. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional

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extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

/Nick P. Patel/

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**VIII. CLAIMS APPENDIX**

1. A method for building a session timing profile, the method comprising:
  - a client sending a request intended for a network service;
  - a message handler associated with the client intercepting the request;
  - the message handler interjecting a session identifier into the request;
  - the message handler transmitting the request to the network service over a network;
  - the message handler storing in a database relative to the session identifier the time at which the request was transmitted to the network service;
  - the message handler intercepting a response to the request from the network service and intended for the client;
  - the message handler identifying the session identifier within the response;
  - the message handler storing in the database relative to the session identifier the time at which the response was received; and
  - the message handler providing the response to the client.
2. The method of claim 1, wherein intercepting the request comprises the message handler intercepting a request sent by a network service acting in the capacity of a client.

5. The method of claim 1, further comprising the message handler storing in the database relative to the session identifier at least one of a name of the client, a name of the network service, a message type, and substance of the request.

9. The method of claim 1, further comprising the message handler interjecting into the request at least one of a name of the client, a message type, a name of the network service, and a request sent time.

13. The method of claim 1, further comprising:

a second message handler associated with the network service intercepting the request sent by the client;

the second message handler identifying the session identifier within the request;

the second message handler storing in the database relative to the session identifier at which the request was received; and

the second message handler providing the request to the network service.

15. The method of claim 13, further comprising the second message handler storing in the database relative to the session identifier at least one of a name of the client, a name of the network service, a message type, and substance of the request.

25. A computer-readable medium that stores a message handler associated with a client, the message handler comprising:

logic configured to intercept a message sent by the client and intended to a network service;

logic configured to interject a session identifier into the message;

logic configured to store in a database relative to the session identifier the time at which the message was transmitted to the network service.

26. The computer-readable medium of claim 25, wherein the logic configured to store comprises logic configured to store at least one of a name of the client, a name of the network service, a message type, and substance of the message.

28. The computer-readable medium of claim 25, wherein the logic configured to interject comprises logic configured to interject into the message at least one of a name of the client, a message type, a name of the network service, and a request sent time.

29. The computer-readable medium of claim 25, further comprising:

logic configured to intercept a response from the network service intended for the client;

logic configured to identify the session identifier within the response;

logic configured to store in the database relative to the session identifier the time at which the response was received; and

logic configured to provide the response to the client.

30. The computer-readable medium of claim 25, wherein the message handler is a simple object access protocol (SOAP) message handler.

35. The method of claim 13, further comprising:

the second message handler intercepting the response sent by the network server and intended for the client;

the second message handler identifying the messaging session to which the response belongs;

the second message handler interjecting the session identifier into the response;

the second message handler transmitting the response to the client over the network; and

the second message handler storing in the database relative to the session identifier the time at which the response was transmitted to the client.

36. A computer-readable medium that stores a message handler associated with a network service, the message handler comprising:

logic configured to intercept a request sent to the network service from the client;

logic configured to identify a session identifier within the request;

logic configured to store in a database relative to the session identifier the time at which the request was received; and

logic configured to provide the request to the network service.

37. The computer-readable medium of claim 36, further comprising logic configured to store in the database relative to the session identifier at least one of a name of the client, a name of the network service, a message type, and substance of the request.

38. The computer-readable medium of claim 36, further comprising:

logic configured to intercept a response sent by the network service and intended for the client;

logic configured to identify the messaging session to which the response belongs;

logic configured to interject the session identifier into the response;

logic configured to transmit the response to the client over the network;

and

logic configured to store in the database relative to the session identifier the time at which the response was transmitted to the client.

39. The computer-readable medium of claim 38, further comprising logic configured to store in the database relative to the session identifier substance of the response.

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**IX. EVIDENCE APPENDIX**

None.

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**X. RELATED PROCEEDINGS APPENDIX**

None.